

USAWC STRATEGY RESEARCH PROJECT

ARE WE PREPARED TO USE THE ARMED FORCES FOR HOMELAND SECURITY?

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## ABSTRACT

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The National Security Strategy (OCT 2002) and the National Strategy for Homeland Security (JUL 2002) recognize that the Armed Forces have a role in meeting the national objectives for preventing and reacting to domestic attacks on the United States. The question is whether the existing laws, regulations, policy and planning guidance provide for adequate means of bringing the full strength of our military power to bear on homeland security issues. This paper analyzes the military's capabilities and preparedness in the context of the principles of military operations other than war to determine if we are prepared to use the armed forces for homeland security.



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## **ARE WE PREPARED TO USE THE ARMED FORCES FOR DOMESTIC SECURITY?**

Defending our Nation against its enemies is the first and fundamental commitment of the Federal Government. Today, that task has changed dramatically.

—President George W. Bush

The terrorist attacks of September 11, 2001 have served as a wake-up call to the United States and will change forever the way the government operates to maintain the security of our homeland. Prior to the attack, the American people and the Federal government took for granted the safety of our country's borders. In response to new threats, the Federal government has acted quickly to pass new legislation, create new strategic policies, and stand up new organizations to ensure our nation's security. The U.S. military is impacted by this changing domestic security landscape. The analysis contained in this paper is focused on determining whether, under the changing structure and policies, the U.S. military is prepared to support their homeland security mission.

### **CHANGING ENVIRONMENT**

As the attack of September 11, 2001 demonstrated, the threats facing the security of the U.S. are changing.

"Today's threat environment reflects the influences of a faster-paced and more interconnected world. In this environment, the traditional notion that "a threat = capabilities x intentions" remains valid, but requires more emphasis on potential threats than previously. Few of those states or non-state actors that might wish to do the United States harm currently possess the capability to do so. Yet, even a slight increase in the rate of proliferation of long-range missile technologies and WMD means that our adversaries can acquire that capability sooner than we expect, perhaps sooner than we can implement countermeasures....Accordingly, policymakers must now focus as much on possibilities as on probabilities, as much on vulnerabilities as on threats. Put differently, an effective homeland defense might require treating vulnerabilities as seriously as confirmed threats under traditional reckoning."<sup>1</sup>

The Federal government has made some significant changes in structure and policy that are intended to better prepare for the new challenges of homeland security. Organizationally, the Department of Defense (DoD) established the U.S. Northern Command (NORTHCOM) on October 1, 2002 to provide command and control of DoD's homeland defense efforts and to coordinate support to civil authorities. DoD also established its own Office of Homeland

Defense Policy under a new special assistant to the Secretary of Defense. On November 25, 2002 the Homeland Security Act of 2002 was passed to establish the Department of Homeland Security with the primary mission of preventing terrorism and reducing the vulnerability to, and responding to terrorist attacks. The reorganization planned to take place under the new department is considered the greatest federal government restructuring since the New Deal. The establishment of these organizations, along with the release, earlier in 2002, of the new National Security Strategy and the National Strategy for Homeland Security, laid the foundation for the Nation's renewed efforts to defend against attacks on American soil. DoD is preparing a new National Military Strategy and a new Joint Doctrine for Homeland Security.

### **HOMELAND SECURITY MISSION**

In the draft Joint Doctrine for Homeland Security, “(t)he military application of the homeland security is described as the preparation for, prevention of, deterrence of, preemption of, defense against and response to threats and aggression directed toward US infrastructure, as well as crisis management (CrM), consequence management (CM), and other domestic support. Homeland defense is described as the protection of US territory, sovereignty, domestic population, and critical infrastructure against external threats and aggression. The military role in the civil support mission is described as DOD support to US civil authorities for domestic emergencies, and for designated law enforcement and other activities.”<sup>2</sup> Two distinct military missions are evident in this definition— homeland defense and support of U.S. civil authorities. With respect to homeland defense, the military will be the lead federal organization. In efforts in support of U.S. civil authorities, the military will operate in support of a lead federal agent. This analysis will look only at the mission set associated with military support of U.S. civil authorities.

There are two assumptions that are made in this analysis with regard to future military operations in support of homeland security. First, military operations are shaped by the National Command Authority (NCA), the National Security Strategy of the United States and the National Military Strategy. As a result, the military will remain engaged in military operations across the globe based on the priorities establishes by the NCA. In other words, the missions in support of Homeland Security will compete against other military operations for priority and resources. “Second, if U.S. national culture and historical traditions are any indication, Americans will demand a domestic environment in which their homeland is secure, but civil authority and liberties remain intact and security measures are transparent.”<sup>3</sup>

One of the specific missions identified in the joint doctrine for military operations other than war (MOOTW) is the support of civil authorities. The U.S. Armed Forces are increasingly

involved in MOOTW as the world political climate changes. Many operations are being conducted overseas and the U. S. military has become adept at planning and executing MOOTW-type operations in foreign theaters. However, after September 11, 2001, the nation has come to realize that our military must be capable of responding effectively to domestic operations required to protect the citizens and infrastructure of the United States. Therefore, the following analysis of the military's capability to carry out homeland security missions will be framed by the principles of MOOTW.

"Joint Pub 3-0, "Doctrine For Joint Operations", delineates **six MOOTW principles: objective, unity of effort, security, restraint, perseverance, and legitimacy**. While the first three are derived from the principles of war, the remaining three are MOOTW-specific.<sup>4</sup> To determine the military's preparedness to meet their homeland security missions, each of these principles will be analyzed within the context of the mission. This paper will provide a subjective analysis, from a strategy perspective, of the military's current capabilities relative to each of these principles to determine our Armed Forces' preparedness to conduct domestic operations. Recommendations will be made for opportunities to improve preparedness under each of the principles.

#### **PRINCIPLE ONE - OBJECTIVE.**

"Direct every military operation toward a clearly defined, decisive, and attainable objective. ...Inherent in the principle of objective is the need to understand what constitutes mission success...."<sup>5</sup>

Key to the success of any operation is a clear understanding of the objective by all forces, agencies and organizations. Although all principles of MOOTW must be considered in the planning and execution of an operation, the effort begins, and success is defined in the establishment of the objective.

In discussing the subject of "the objective" in war [and MOOTW] it is essential to be clear about, and to keep clear in our minds, the distinction between the political and the military objective. The two are different but not separate. For nations do not wage war for war's sake, but the pursuance of policy. The military objective is only the means to a political end. Hence the military objective should be governed by the political objective, subject to the basic condition that policy does not demand what is militarily – that, is practically – impossible.<sup>6</sup>

## BACKGROUND.

The following analysis will review the national strategic policies that serve to direct the objectives of military operations for national security. Military operations are an element of national policy and the objectives of military operations must reflect these policies. A review of policy from the NCA to the operational levels of the combatant commander should demonstrate a close and consistent direction for preparation and execution of homeland security operations. Military policies that cannot be easily traced back to our national policy may result in military operations that are counterproductive to protecting our national interests. Failure to establish a clear objective will result in failure to bring all of the elements of power together for an operation to succeed rapidly and decisively.

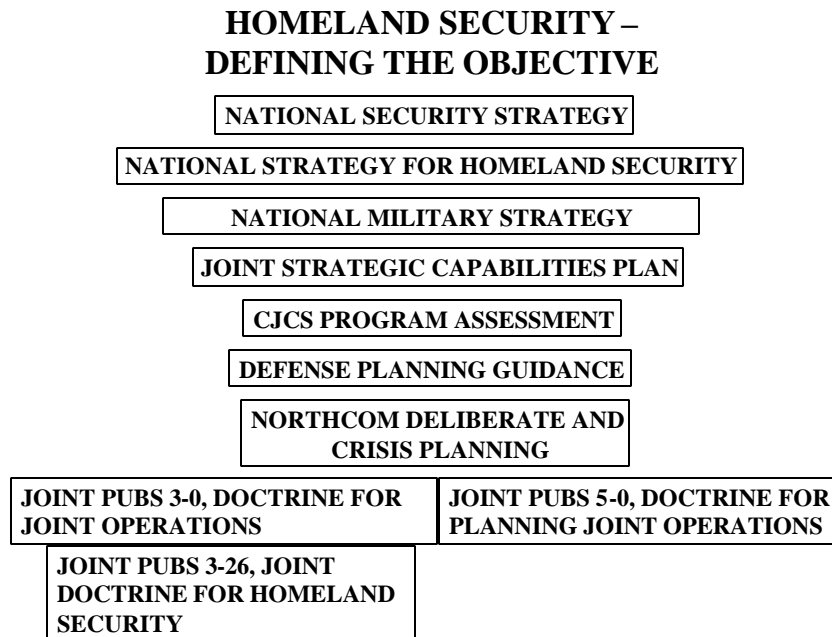


FIGURE 1. DEFINING THE OBJECTIVE

The political objectives for homeland security are reflected in the National Security Strategy and the National Strategy for Homeland Security. Military objectives related to these political objectives are contained in the National Military Strategy, the Joint Strategic Capabilities Plan (JSCP), the CJCS Program Assessment (CPA) and the Defense Planning Guidance (DPG). At the operational level these military objectives are reflected in the combatant commander's mission statement, and the deliberate and crisis action plans developed by them. An analysis will be made of the National Security Strategy, the National Strategy for Homeland Security, the National Military Strategy and the mission statement of NORTHCOM, along with

the military doctrine used to develop military plans for operations, Joint Pubs 3-7 and 3-26. Because this is an unclassified analysis the JSCP, CPA and DPG will not be included in the analysis.

### **National Security Strategy**

The National Security Strategy establishes eight goals for the national security. The goal to “Strengthen Alliances to Defeat Global Terrorism and Work to Prevent Attacks Against Us and Our Friends” includes an objective for “...strengthening America's homeland security to protect against and deter attack. ...Centered on a new Department of Homeland Security and including a new unified military command and a fundamental reordering of the FBI, our comprehensive plan to secure the homeland encompasses every level of government and the cooperation of the public and private sector.”<sup>7</sup> The goal to “Transform America's National Security Institutions to Meet the Challenges and Opportunities of the Twenty-First Century” establishes that “[o]ur military's highest priority is to defend the United States.”<sup>8</sup> The major objectives are to assure our allies and friends; dissuade future military competition; deter threats against U.S. interests, allies and friends; and, decisively defeat any adversary if deterrence fails. The focus of these objectives is primarily international, however, the most important priority is still to protect the homeland for the American people. Many of the goals and their objectives do not involve military operations, but are based in the other elements of national power: political, (to include domestic law enforcement), economic, and information. “Sometimes policy guidance is unclear, ambiguous or difficult to find. National policy also concerns itself with all basic elements of national power.... To make things even more interesting, national policies are often overlapping, and may even be contradictory. There are seldom “purely military” or “purely political” objectives.”<sup>9</sup> There are no specific military objectives for domestic operations identified in this policy; however, it suggests that all available resources, including the military, will be used to secure the homeland.

### **National Strategy for Homeland Security**

The National Strategy for Homeland Security “...complements the *National Security Strategy of the United States* by addressing a very specific and uniquely challenging threat – terrorism in the United States....”<sup>10</sup> “The strategic objectives of homeland security in order of priority are to:



- Prevent terrorist attacks within the United States;
- Reduce America's vulnerability to terrorism; and
- Minimize the damage and recover from attacks that do occur."<sup>1</sup>

The National Strategy for Homeland Security contains a section on *Organizing for a Secure Homeland*, in which specific objectives are identified for the military.

*"Department of Defense.* The Department of Defense contributes to homeland security through its military missions overseas, homeland defense, and support to civil authorities. Ongoing military operations abroad have reduced the terrorist threat against the United States. There are three circumstances under which the Department would be involved in improving security at home. In extraordinary circumstances, the Department would conduct military missions such as combat air patrols or maritime defense operations. The Department would take the lead in defending the people and the territory of our country, supported by other agencies. Plans for such contingencies will continue to be coordinated, as appropriate, with the National Security Council, Homeland Security Council, and other federal departments and agencies. Second, the Department of Defense would be involved during emergencies such as responding to an attack or to forest fires, floods, tornadoes, or other catastrophes. In these circumstances, the Department may be asked to act quickly to provide capabilities that other agencies do not have. Finally, the Department of Defense would also take part in "limited scope" missions where other agencies have the lead..."<sup>2</sup>

The "Homeland Security Strategy" supplements the National Security Strategy to provide the "National Policy" for use of the military in homeland security. Together these documents create a clear statement of our political objectives.

#### **National Military Strategy (draft)**

The draft National Military Strategy identifies "...four interrelated national military objectives – **Defend the Homeland, Promote Security and Deter Aggression, Win the Nation's Wars, and Ensure Military Superiority...**"<sup>3</sup> In defense of the homeland, the national military policy restates the same roles as those contained in the Strategy for Homeland Security – homeland defense and support to civil authorities. Actions associated with homeland defense "... are proactive, externally focused, and conducted in depth to counter a range of possible threats."<sup>4</sup> The military may also be directed to provide civil support for domestic emergencies and designated law enforcement missions. The National Military Strategy recognizes that the Armed Forces may possess capabilities to respond to crises or attacks, that

may not be available by other federal, state or local agencies. Success of these civil support activities are highly dependent on teamwork and “seamless integration” to be successful.

“The definition of a “theater of war” is expanding, as operations against adversaries will likely cross national boundaries, geographic regions and areas of responsibility, and may include the US homeland. Such conditions demand truly global strategy that integrates the full range of national capabilities – diplomatic, military, economic, law enforcement, and informational – as well as a seamless Joint Force organized, equipped, and trained to operate under these conditions.”<sup>15</sup> The National Military Strategy emphasizes the need for the military to be prepared to coordinate and integrate operations with other agencies and departments. This constitutes policy that is consistent with the “Homeland Security Strategy” in calling for integration of operations across local, state and national agencies.

### Joint Doctrine for Homeland Security (first draft)

The joint doctrine specifically identifies the types of operations to be supported by the military in defense of the homeland and in support of civil authorities. The types of operation are best depicted in figure 2. These mission areas and mission sets very closely reflect the preceding national and military strategies.

Homeland Security Operational Framework		
Mission Areas	Mission Sets	Incidents
<b>Homeland Defense</b>	Air & Missile Defense	Air Attack Ballistic & Cruise Missile Attack
	Sovereignty Protection	Hostile Invasion of Territorial Waters and Borders Adversary Negation of a Space System Computer Network Attacks
	DCI Protection	CBRNE Attack Power Projection Capability Attack
<b>Civil Support</b>	MACA	Natural and Manmade Disasters CBRNE Incident Support
	MSCEA	Combating Terrorism Drug Trafficking Illegal Immigration NCI Protection
<div> Legend  MACA:military assistance to civil authorities  MSCEA:military support to civilian law enforcement agencies  MACDIS:military assistance for civil disturbances </div>		Riots Insurrection Unlawful Obstruction or Assembly
	MACDIS	

FIGURE 2. HOMELAND SECURITY OPERATIONAL FRAMEWORK<sup>16</sup>

The joint doctrine provides a greater level of detail and specifically identifies types of incidents that would require military operations. There continues to be a clear and consistent identification of the mission of the military in homeland security. Review of the flow of strategic doctrine, makes it evident that military mission sets are founded in and directed toward attaining our national objectives. This means that military planners should be able to identify operational objectives that can be easily integrated into the plans of other federal, state and local agencies to develop an operation that will best utilize all elements of power. Whether the processes exist to facilitate that integration and establish clear command and control of operations will be discussed in a later section of this analysis.

### **Mission of the U. S. Northern Command**

“U.S. Northern Command (NORTHCOM) was established in 2002 to provide command and control of Department of Defense (DoD) homeland defense efforts and to coordinate support to civil authorities. NORTHCOM's specific mission:

- Conduct operations to deter, prevent, and defeat threats and aggression against the United States, its territories and interests within the assigned area of responsibility (AOR); and
- As directed by the President or Secretary of Defense, provide military assistance to civil authorities including consequence management operations.<sup>17</sup>

NORTHCOM'S mission remains consistent with the national security and military strategy. As NORTHCOM stands up to support its mission, it will need to remain focused on these strategies as it works to resolve processes with the federal, state and local agencies and resourcing from DoD.

### **Joint Planning Processes**

At the strategic level, the “objective” established for domestic military operations appears to be consistent and very much in keeping with the national political objectives. This consistency in purpose is a key to achieving the remaining principles of MOOTW. Without this shared objective, domestic military operations could fail, or at a minimum would be severely hindered until a shared objective could be developed. This focus also allows the many agencies and organizations to develop plans with relative assurance that the combined execution will achieve the ends desired by all participants. The military planning process,

outlined in Joint Pub 5-0, Doctrine for Planning Joint Operations, serves as another check that military objectives are in line with national political goals. Plans for operations are reviewed and approved by the national command authority after review by the Chief, Joint Chiefs of Staff. The military planning process ensures that national and military objectives are in consonance and that consideration has been given to the impacts of military operations on other aspects of our national values.

Several planning documents for homeland security operations already exist. "DoD serves as a support agency to the FBI for crisis management functions, including technical operations, and a support agency to FEMA for consequence management. In accordance with DoD Directives 3025.15 and 2000.12 and the Chairman Joint Chiefs of Staff CONPLAN 0300-97, and upon approval by the Secretary of Defense, DoD will provide assistance to the LFA [lead federal agency] and/or the CONPLAN primary agencies, as appropriate, during all aspects of a terrorist incident, including both crisis and consequence management."<sup>18</sup> The Federal Emergency Management Agency (FEMA) is responsible to coordinate and maintain the Federal Response Plan (FRP). "This plan is the result of agreements between FEMA and the primary and supporting Federal agencies responsible for providing disaster relief support."<sup>19</sup> The Federal Radiological Emergency Response Plan (FRERP) provides "...the Federal government's concept of operations based on specific authorities for responding radiological emergencies; outlines Federal policies and planning considerations on which the concept of operations of the Plan and Federal agency specific response plans are based; and specifies authorities and responsibilities of each Federal agency that may have a significant role in such emergencies."<sup>20</sup>

## ANALYSIS

It's clear from this review that our military will fix itself on the right objective. The policies and processes of the armed forces serve national security much as they have served military operations across the globe. These processes ensure that the civilian leadership, in the form of the NCA, will ultimately assess the military operations against other elements of national power. The task of military planners and those in other agencies and organizations is to develop a means by which an integrated plan, considering all elements of national power, can be presented to the NCA for consideration. Military doctrine requires that the interagencies be included in the development of military plans. However, this structured planning process may not be shared by other federal, state and local agencies or organizations. It's this lack of structured coordination among the many agencies and organizations that represents the

greatest risk to developing the “objective” for operations for Homeland Security. The creation of the Department of Homeland Security will allow the military to narrow the range of agencies that might be involved in domestic operations, and the National Strategy for Homeland Security recognizes that many agencies at the federal, state and local level will be involved in homeland security operations.

## RECOMMENDATION

One major improvement can be made under the principle of Objective. There is a need to develop an integrated planning process that facilitates the interagency coordination of operational plans for homeland security. This would allow plans to be developed on a deliberate basis and vetted before being presented to the NCA for approval. This process should be one that facilitates coordination at the operational level, i.e. Combatant Commander's level. A civilian counterpart in the Department of Homeland Security, equivalent to the Combatant Commander, needs to be established. A planning process managed in the Department of Homeland Security, coordinated with the joint planning process, would significantly improve the ability of the federal government to focus all forces, military and civilian, on the objectives for homeland security operations.

## PRINCIPLE TWO - UNITY OF EFFORT.

“While the chain of command for U. S. military forces remains inviolate (flowing from the NCA through the combatant commander to the subordinate joint force commander (JFC)), **command arrangements among coalition partners may be less well-defined** and not include full command authority.”<sup>21</sup>

The “coalition partners” in domestic operations are the myriad of agencies at the local, state and federal levels, in addition to the non-governmental organizations (NGOs) and independent private volunteer (IPVs) groups. Conducting operations within the nation are no less complex than operations overseas. Coordination of all the available means to a common purpose is critical to success of an operation. Establishing responsibilities and relationships among all of the participants is necessary and will be reflected in the command and control structure established for the operation. Domestic operations do have several distinct advantages over foreign operations: organizations share a common language and form of government; most organizations adhere to the same political and legal foundations; movement throughout the country is not restricted by political boundaries; the general population supports

the operations underway; and, the President has “command” of federal agencies and great influence over others – state, local agencies, NGOs and IPVs - in the form of funding, prestige, and inferred authority. However, it’s important that these advantages are not taken for granted. They do not eliminate the need for a clear understanding of command and control relationships; agreements on the roles of all organizations; and the need for coordinated planning.

This analysis will focus on two components – command and control structure and coordinated planning. The military has an established chain of command that other organizations may not have. This makes it even more important to conduct coordinated planning to establish roles and relationships before operations begin. The advantages of common language and government and freedom of movement should be used to improve the effectiveness of this process.

## COMMAND AND CONTROL STRUCTURE

The national strategic doctrine clearly established the command structure for homeland security operations. The military will “...take the lead in defending the people and territory of the U.S., supported by other agencies.”<sup>22</sup> And, for operations in support of civil authorities, a non-military federal agency will normally be the lead organization.

In operations for Homeland Defense where the military leads the operation, the Unified Action Armed Forces (UNAAF) ...“synchronizes and/or integrates joint, single-Service, special, multinational, and supporting operations with the operations of government agencies, NGOs, and IOs to achieve unity of effort in the operational area.”<sup>23</sup> “Command authority over assigned forces is vested only in the commanders of combatant commands by title 10, USC, section 164, or as directed by the President in the Unified Command Plan (UCP), and cannot be delegated or transferred.”<sup>24</sup> The President is the Commander and Chief of the Armed Forces and sets the national strategy and the Secretary of Defense determines when DoD will become involved in operations for homeland defense. Combatant Commanders will conduct these operations as directed by SECDEF and POTUS.

The military structure and process for unity of command is well established and recognizes the need to coordinate with the interagency in the planning and execution of operations. NORTHCOM will follow the same processes identified in the joint military doctrine that have been successful in military operations throughout the world.

“In the CS (civil support) mission areas, DoD will normally be in support of another federal agency. The domestic operating environment presents unique challenges to the joint force commander. Specifically, it is imperative that

commanders and staffs at all levels understand the relationships, both statutory and operationally, among the Federal agencies. Moreover, it is equally important to understand DoD's role in supporting these agencies. For example, the unclassified United States Government Interagency Domestic Terrorism Concept of Operations Plan (USG CONPLAN) specifically details the roles and missions of the following departments and agencies in the event of a domestic terrorist use of WMD: Defense, Energy, Health and Human Services , Environmental Protection and FEMA."<sup>25</sup>

The possibility exists to establish interagency doctrine to set the conditions for unity of effort for domestic operations. The difference is that these operations may be conducted in the American homeland and the military in many instances will act in a supporting, not a leading role. Does this make a significant difference? The military may serve in a supporting role in foreign operations under a multinational command structure or under the Department of State. Is there any reason to think that conducting domestic operations should be different? The primary difference is that the players change – coordination is not with foreign governments, but with state and local governments. Interagency coordination is focused not on the Department of State but on the Department of Homeland Security. Because this coordination has not been significant in the past, coordination will be more difficult initially, but should evolve to being more effective over time, especially as the Department of Homeland Security becomes operational.

The organizational structure to be used for domestic operations, particularly in support of civil authorities, is not as clear as the responsibility for command and control. National defense operations led by the military will be structured in accordance with the doctrine for joint operations. The military organization will follow the same doctrine if called upon to support civil authorities. However, since the operation will be led by another federal agency, a structure needs to be established to coordinate among the various responders, including the military. One recommendation has been to "[e]stablish interagency task forces for homeland security with federal, state, and local representation. There should be , for each state, major city and/or metropolitan area, an interagency task force, involving federal, state, local and key private sector actors. These task forces would address the full range of homeland security issues from the local perspective. The lifeblood of these task forces will be information, which must flow smoothly up, down and across them in real-time....FEMA...should take on the responsibility of forming these task forces."<sup>26</sup> This structure would certainly be one that is familiar to the military. The recommendation to set up a task force in each state and major city would be costly in the number of resources required to staff the task forces. A less costly approach would be to establish the task force across a designated region, for example, FEMA emergency response

regions. If task forces were established in this manner, coordination among states in the region would be critical for their success. An alternative approach would be the establishment of a standing task force that would deploy from a single location to the operation site. While this approach would be less costly to resource, there is a risk of multiple operations occurring simultaneously and also a question on whether the task force would be spread too thin in covering the entire country.

## COMBINED PLANNING EFFORTS

The greatest opportunity for effectiveness may be in the area of combined planning efforts. The USG CONPLAN for terrorist attacks is one example of the type of planning that can be performed. The military planning process, again, is very well established and military planners are capable and experienced. In planning for domestic operations, there is a huge advantage in being able to share plans across agencies without a great concern of compromising the security of the operations. Although there are many operations in homeland security that will not require military support, the failure to plan on an interagency level for those operations that may require military assistance would be negligent. NORTHCOM will develop plans in response to the Joint Services Campaign Plan (JSCP), like all other combatant commanders. Coordination of plans with state and local governments and other federal agencies, particularly the Department of Homeland Security, to the point that the plan becomes a true interagency plan, represents a huge advantage in preparing for homeland operations.

## RECOMMENDATION

The significance of this advance planning effort impacts other principles of MOOTW to be discussed later, particularly security (force protection), perseverance (force structure), and legitimacy of military operations. The strongest recommendation that can be made for Unity of Effort is to develop a common planning process that can be employed across all federal, state and local agencies. The guidance contained in the first draft of the Joint Doctrine for Homeland Security could serve all agencies in their efforts to establish a Unity of Effort.

- Identify all agencies and organizations potentially involved in the operation.
- establish an interagency hierarchy and define the objectives of the response efforts.
- Identify the resources of each participant in order to reduce duplication and increase coherence in the collective effort.
- Define the objective of the response effort.
- Define the desired end state and exit criteria.
- Define courses of action for the supporting effort.
- Identify potential obstacles to the collective effort.
- Maximize the mission's assets to support the longer goals of the enterprise.
- Establish interagency assessment teams.<sup>27</sup>



### **PRINCIPLE THREE – SECURITY.**

“Never permit hostile factions to acquire a military, political, or informational advantage.”<sup>28</sup>

Security means our military forces need to have the ability to conduct their operations free from the threats and with the capability, and right, to protect themselves from hostile actions or intent. Action to protect the operation can be taken against any individual, group or element that poses a threat. In domestic operations, of particular concern is the right to use force against U. S. citizens. Doctrine for MOOTW does not distinguish between domestic and foreign operations. It emphasizes the need for personnel to stay alert and to plan and posture for the need to quickly transition to combat if the situation so dictates. The amount of force to be employed will be addressed under the principle of “Restraint”, later in this paper. In any event, the military will not conduct an operation without consideration of security. Of initial concern is the security of the forces involved in the operation. In addition, military forces may be used to provide a secure operating environment for civilians of participating agencies or organizations.

#### **FORCE PROTECTION.**

There are two important aspects of force protection – physical security and operations security (OPSEC). For the purposes of physical security, military police or combat forces may be used to create an area within which the force will operate. This area may include the establishment of exclusion areas and the use of security patrols. In a domestic operation, the public affairs officer will play an important role in keeping civilians aware of restrictions that will be enforced for the purposes of physical security. Close coordination with the other agencies and the media can ensure that information related to military security is distributed among the civilian community to avoid unnecessary confrontations.

The need to inform civilian communities and organizations must be balanced against the need to maintain operation security. The need for OPSEC is more prevalent in national defense efforts than in operations to support civilian agencies. However, in order to ensure force protection, OPSEC must be considered in either operation, and plans developed from assessment of the potential risk to military forces. Planning and clearly communicated intentions in many cases will avoid unnecessary alerts or confrontations.

## PROTECTION OF CIVILIANS AND OTHER ORGANIZATIONS.

There are three different categories of civilians that need protection: civilians associated with federal, state and local governmental agencies; those working for NGOs or IPVs; and, the general population. The first group's protection can be accomplished through close planning and coordination with those agencies. Military plans for force protection must be coordinated with the lead federal agency to incorporate the protection of civilians participating in the operations. It's possible that civilian agencies will have police protection, while the military is responsible for their own force protection plan. Whether the military provide civil agencies with protection or not, there is a need to coordinate this security between military and civilian agencies.

Similar to operations overseas when NGOs and/or IPVs are engaged in operations, the force commander must determine the level of force protection to be afforded these groups and the support must be negotiated with these groups to ensure operational integrity and ability to respond. Memoranda of agreement serve to document the conditions under which the members of NGO and IPVs will submit to protection from the military. Although for the most part, operations in support of civil authorities will fall under the lead of non-military federal agency and the police force will be responsible for law enforcement, including security, there may be situations where the number of civilians may exceed the capabilities of the police force and the military will be called upon to assist in establishing security for civilians. Conditions for the protection of the general population is probably best addressed in the rules of engagement developed for the specific operation in coordination with the lead federal agency.

Domestic operations will involve significant numbers of U. S. citizens and new approaches may need to be developed in providing assistance. Unlike foreign operations, the military have a responsibility to assist and protect U. S. citizens. Therefore, domestic operations will require clear direction on the responsibility of the military in regard to displaced civilians and protection of civilian areas during operations. Homeland defense operations must consider the impact on U.S. citizens and civil assistance operations must be clear on the delineation of responsibilities for protection of civilians. The conditions must be understood by the military and civilian agencies prior to the commencement of operations.

## RECOMMENDATION

This is an area that could easily be taken for granted in homeland security operations. Unless military forces are prepared to conduct operations involving large groups of civilians, the safety of the force, and the security of U.S. citizens could be threatened. Conducting operations

at home creates an added responsibility for the military under the principle of security. Methods to be used by military forces to provide for the security of citizens must be made clear before an operation begins. Military forces need to understand the roles of all agencies involved and the relationship of maintaining military security to protecting U.S. citizens. Again, planning is a key to preparing for operations. This principle, although tied to all of the other principles, is very closely related to the principles of Unity of Effort and Restraint. A clear command and control structure and well established rules of engagement significantly influence the ability to maintain security of the force, while enabling them to conduct the necessary operations to protect U.S. citizens.

#### **PRINCIPLE FOUR – RESTRAINT.**

In any MOOTW, military capabilities must be used prudently. Probably more so in homeland security operations where operations may directly effect American citizens. Planning for the use of military forces and establishing a clear command and control structure can ensure that everyone involved in the operation understands how, where, when, and what military capabilities will be employed

**“Commanders at all levels must take proactive steps** to ensure their personnel know and understand the ROE [rules of engagement] and are quickly informed of changes. Failure to understand and comply with the ROE can result in fratricide, mission failure, and national embarrassment. **ROE in MOOTW are generally more restrictive, detailed, and sensitive to political concerns than war**, consistent always with the right to self-defense. Restraint is best achieved when ROE issued at the beginning of an operation address most anticipated situations that may arise.”<sup>29</sup>

Whether the operation is directed at homeland defense or in assistance to civilian authorities, Rules on the Use of Force (RUF) or rules of engagement (ROE) must be established and understood, not only by the military forces involved, but, also by the civil agencies and the American population, to the extent it won't compromise the security of the operation or the forces involved.

#### **RULES ON THE USE OF FORCE AND RULES OF ENGAGEMENT**

Depending on the type of operation, different RUF or ROE apply. In general, for operations in support of civil authorities, where deployed forces do not carry arms, the *Standing Rules of Engagement for US Forces*, CJCSI 31211.01, do not apply. Rather the RUF may be

contained in an existing plan, i.e. for operations in support of CBRNE CM operations, the RUF is contained in CJCS CONPLAN 0500, Annex C, Appendix16; the Memorandum of Agreement (MOA) with the supported federal agency; or, in the mission's execute order and subsequent orders.

Forces deployed with arms would be provided with rules of engagement before the operation begins. "If such ROE cannot be established, **US forces will exercise the right of self-defense contained in CJCSI 3121.01A, *Standing Rules of Engagement for US Forces***, while seeking guidance from the appropriate combatant commander."<sup>30</sup> As indicated above these *standing rules* may be supplemented for specific operations and may be contained in execute orders or in the MOA negotiated with federal agencies.

There are two key elements to setting the parameters for appropriate restraint in military operations for homeland security. The first is development and coordination of the RUF/ROE with the agencies involved in the operations. Along with developing specific rules, it's important to develop the process by which rules can be revised after operations have begun. This process may be contained in the MOA with the lead federal agency. The second element is training on the *rules* before operations begin, and, then providing the means to update training after the start of operations.

Although there are always political risks in operations overseas if the *rules* aren't followed, in addition, the rights and lives of U.S. citizens may be put at risk in domestic operations if the conditions for restraint are not clearly established and understood. There is a balance that may need to be managed between security and restraint in domestic operations that may not need to be addressed in other engagements. Normally, the military forces are authorized to take measures to protect themselves. And, in domestic operations, as discussed above, the military has the same task to maintain security of the force. However, because the contact with U.S. citizens is heightened in domestic operations, it must be absolutely clear as to when military force can be used against U.S. citizens, especially in regard to force protection. The dilemma centers on the question – when can the military use force to protect themselves against the citizens they are tasked to protect and defend? This question needs to be very clearly addressed in the RUF/ROE before operations begin.

#### LESSONS LEARNED FROM THE LOS ANGELES RIOTS

The Los Angeles riots that began on 29 April 1992 turned out to be the most destructive civil disturbance in U.S. history, resulting in at least 54 dead and more than \$800 million in property damage. During the disturbance more than 10,000 California National Guard troops

and 3,500 active soldiers, including 1,500 Marines, were deployed to the area. Two points can be taken from the lessons learned in regard to restraint exercised by these troops during this operation.

The most notable story from the operation exemplifies the need to coordinate the intent of civilian authorities in providing orders to military forces under their control for the purpose of appropriate use of force.

“Police officers responded to a domestic dispute, accompanied by marines. They had just gone up to the door when two shotgun birdshot rounds were fired through the door, hitting the officers. One yelled ‘cover me!’ to the marines, who then laid down a heavy base of fire....The police officer had not meant ‘shoot’ when he yelled ‘cover me’ to the marines. [He] meant...point your weapons and be prepared to respond if necessary. However, the marines responded instantly in the precise way they had been trained, where ‘cover me’ means to provide me with cover using firepower....over two hundred bullets [were] fired into that house.”<sup>31</sup>

This story demonstrates the importance of coordination between military and civilian authorities. One way to anticipate these potential misunderstandings is through civil/military training exercises. Although the first step is to plan and establish standard RUF/ROE, unless the conditions are practiced through exercises, it’s likely that similar misunderstandings will occur.

The second point deals with the arming order established by the JTF-LA commander. The readiness conditions in the arming order were clear and an attachment to the ROE.

“The JTF-LA commander ordered soldiers to remain at AO-1 [magazine in ammunition pouch], unless they were responding to an immediate specific threat that required higher arming order. However, most soldiers on the street – and the police officers they were supporting—believed that merely being in a uniform in LA following the riots required a higher state of readiness than AO-1. In the event, the JTF staff believed that their arming order was consistently violated....Despite repeated admonitions from the JTF headquarters, National Guard officers and senior NCOs left it to the troops on the ground to determine appropriate arming order.”<sup>32</sup>

This presents a different problem concerning restraint. Because of the nature of domestic operations, and other MOOTW as well, commanders may feel the need to maintain an unusually high level of control. “One explanation for this extreme centralization of control may lie in the ambiguous relationships during [M]OOTW between tactical action and desired

operational or strategic outcomes. This ambiguity could be encouraging commanders to increase control when the situation and mission may instead call for greater autonomy for subordinate units.”<sup>33</sup> Restraint must take the appropriate form in order to be effective. Disregard for issued orders has no excuse, but, under the circumstances, the commander needed to realize there was a risk to the troops on the ground and develop a new restraint tactic in keeping with the situation.

## RECOMMENDATIONS

The conditions for use of the military in domestic operations are fairly well established, although, in today's environment of asymmetric threats, there is no way to anticipate all possible situations. The circumstances for domestic operations are significantly different, and, for that reason, the RUF/ROE may need to be different. The establishment of doctrine for the specific domestic RUF/ROE should recognize and address the differences in homeland security operations. It could serve as a foundation from which commanders could build specific RUF/ROE or a reference from which the military and lead federal agencies could address use of force in the MOAs developed for domestic operations. It is recommended that doctrine be established specifically addressing RUF/ROE for domestic operations.

## PRINCIPLE FIVE – PERSEVERANCE.

**“Prepare for the measured, protracted application of military capability in support of strategic aims....Often, the patient, resolute, and persistent pursuit of national goals and objectives, for as long as necessary to achieve them, is a requirement for success.”<sup>34</sup>**

The ability of the U.S military to persevere requires that forces are available when called upon, with the appropriate mix of skills required for the operation; and, capable of continuing operations until the objective is achieved or the operation is transitioned to civilian agencies. The U.S. military structure has been developed to defend and protect the nation and its people, but the threats of attack within the U. S. should be viewed as a new requirement. The possibility exists that domestic attacks could require significant resources from the U.S. military. This raises questions of how the projections for force structure address the requirement for Homeland Security and whether the force structure will be sufficient to perform the assigned tasks without seriously jeopardizing other operations.

Since the end of the Cold War, the military has been trying to right-size itself under pressure to yield a much anticipated peace dividend. Until recently the military strategy focused

on the ability to conduct two major theatre wars (MTW) and to carry on several small-scale contingency operations across the globe. The Quadrennial Defense Review (QDR) states that “[f]or planning purposes, U.S. forces will remain capable of swiftly defeating attacks against U.S. allies and friends in any two theaters of operation in overlapping timeframes....At the direction of the President, U.S. forces will be capable of decisively defeating an adversary in one of the two theaters in which U.S. forces are conducting major combat operations by imposing America’s will and removing any future threat it could pose.”<sup>35</sup> The recently released National Security Strategy and the draft National Military Strategy recognize that the threats in today’s world have changed and that the force needs to be restructured to address this changing environment.

“The Defense Strategy also recognizes enduring requirements that will shape the size and the structure of the Armed Forces for the foreseeable future. In particular, it describes a broad range of military requirements and defines a new **force-sizing construct** that takes into account the number, scope, and concurrency of the tasks actually assigned to the military. This construct explicitly calls for the force to be sized for the defense of the US homeland, forward deterrence, overlapping warfighting missions in more than one region, and multiple lesser contingency operations. It also acknowledges the importance of a force generation capability and a strategic reserve to mitigate risk.”<sup>36</sup>

The military is in the midst of transforming to create a cost effective, quick and lethal capability to respond to crises across the globe. This transformation is intended to replace the need for forward deployed forces with the capability to deploy rapid response forces to operations as required. This transformation provides an opportunity to redefine the basis for developing the force structure to reflect changes in the current and future security environment. With the new awareness and concern for homeland security, it’s appropriate to develop a force structure to respond to the potential need for homeland security operations. Is the strategy for military force structure consistent with the policies of the national security strategy and will the military have sufficient forces to respond to domestic operations without jeopardizing strategic operations elsewhere?

## FORCE STRUCTURE

The military could be involved in a broad range of operations for homeland security. This range extends from Critical Infrastructure Protection through Missile Defense to WMD defense and response. The resources to accomplish these tasks will vary significantly, and, while the current force structure could easily support the low-end operations without jeopardizing other efforts, response to one, or several, WMD occurrences would require a significant number of

forces to be engaged for an extended period. The QDR recognizes the need to examine the force structure required to support homeland security "...to ensure they are properly organized, trained, equipped, and postured to provide for the effective defense of the United States."<sup>37</sup> A significant resource requirement for homeland security could have an impact on global presence and impact the military's capabilities to respond to other strategic engagements. Presently, NORTHCOM is not apportioned forces, but would be assigned forces whenever a situation arises, as directed by the President and Secretary of Defense. This in essence means that NORTHCOM will compete for resources and will have to rely on supporting commands to make the forces ready and available for NORTHCOM missions.

For a mission that is considered the primary task of the federal government, the force structure assigned to complete the mission doesn't seem to be commensurate with the priority that it carries in our national security strategy. At a minimum, a method to determine the force structure for homeland security missions needs to be developed. A process must be instituted to assess the risk and likelihood of military involvement across the spectrum of possible homeland security missions, develop deliberate planning factors, assess requirements, reconcile conflicts between homeland security and warfighting missions and determine the supplemental force structure requirements to adequately respond. The joint deliberate planning process could be used to serve this purpose. In the first step, assess the risks and identify the most likely homeland security operations. From the risk analysis develop a strategy for allocation of forces. The heightened priority for homeland security is cause to rethink the standard against which the U. S. has built and allocated forces in the past, i.e. the two-MTW scenario. Even if the two-MTW strategy is maintained for planning, the need for forces to conduct high-end homeland security operations, WMD incidents, and the ability to assign those forces needs to be given serious consideration. The projection for force structure needs to consider not only if there are enough resources, but, if the assigned forces have the appropriate capabilities. The capabilities required for homeland security operations - civil services, chem./bio response, military police, intelligence - are also capabilities required to perform many overseas operations.

Methods used to project force structure need to be revised to reflect the current national strategies. A method other than the two-MTW scenario needs to be developed. The effects of DoD transformation need to be recognized. The impact of conducting new homeland security operations needs to be realized. And, finally, the extent to which forces can be assigned to multiple operations needs to be assessed from the prospective of an insufficient force structure to meet the demands of the current security environment. Redefining the method for developing



force structure with recognition of potential homeland security efforts “...would cause defense planners and strategists to address HLS and national security as a single, integrated activity.”<sup>38</sup> Whatever the scenario may be, the key is to recognize and initiate the planning process to anticipate the impact of homeland security operations on the military force structure.

#### CONFLICT TERMINATION

One lesson common to MOOTW operations is the difficulty in transitioning from a military to a civilian operation. The length of operations has a clear impact on planning for the military force structure and the ability to transition has a significant impact on the length of operations. This is an area where operations in a domestic environment should be a great advantage. The coordination and transition process should be made simpler by the fact that federal agencies fall under the jurisdiction of the NCA and a transition to civil authorities could be directed to free up military resources more quickly and make them available for other operations.

#### RECOMMENDATION

The current force structure plans do not fully recognize the possible extent of homeland security operations. Certainly, the NCA would make available whatever resources were necessary to respond to an emergency homeland security event. The impact on our strategic position in other theatres of operation would be unknown, unless, decisions are made to integrate the potential homeland security operations into the force structure planning process. This is a decision that needs to be made by the national leadership. As discussed above, our current strategic policies clearly recognize that homeland security is a top priority. Given that, the leadership must also recognize the need to plan and support the military missions associated with that priority and provide the resources necessary to ensure success.

National security policy recognizes that local and state agencies will probably be the first to respond to security events in the U.S. It must also be recognized that when the armed forces become involved in operations, a transition will need to be planned to transfer responsibility back to the civil agencies. It's recommended that national policy be developed to provide for this transition from military to civilian operations.

#### PRINCIPLE SIX – LEGITIMACY.

“In MOOTW, legitimacy is a condition based on the perception by a specific audience of the **legality, morality or rightness of a set of actions**”<sup>39</sup>

It is a widely held belief that domestic use of the Armed Forces is prohibited. However, current laws, regulations and policies permit the military, under certain circumstances, to assist civilian agencies in maintaining or restoring the peace, or, to respond to national emergencies or catastrophes within the United States. With the recent terrorist attacks and the efforts underway to better secure the nation, questions have arisen on whether these circumstances warrant changes to existing laws/policies/procedures to permit greater use of the Armed Forces to protect against or react to domestic terrorist actions.

The Department of Defense will be involved in domestic security, but, the question is whether the current guidance (policy and law) is sufficient for the military to be effective in their response, or, do the circumstances warrant changes that more clearly establish the roles of the military and the relationships with other federal, state and local agencies.

## BACKGROUND

The president has broad powers "... to respond, decisively when required, in a wide variety of circumstances endangering the security of the nation."<sup>40</sup> Section 2 of the Constitution establishes the president's responsibility to maintain and defend the "peace of the United States" and his position as commander and chief of the armed forces puts the military at his command to meet this obligation.

The president's power to use the military may be limited, or, enhanced, through legislation. The president is required to "preserve, protect and defend the Constitution of the United States" and to "take care that the Laws be faithfully executed".<sup>41</sup> History has shown that in most cases Congress has acted to pass legislation expressly authorizing the president to use the military in domestic crises, e.g. The Insurrection Act (1792), The Stafford Act (1974) and, The National Emergencies Act of 1974.

The one law considered to limit the use of the military is the Posse Comitatus Act (1878). The act makes it a punishable crime, "...except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, (to) "willfully use any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws."<sup>42</sup> However, "(T)he erosion of the Posse Comitatus Act through Congressional legislation and executive policy has left a hollow shell in place of a law that formerly was a real limitation on the military's role in civilian law enforcement and security issues."<sup>43</sup>

The Supreme Court has upheld the president's authority to call upon the military in response to national emergencies. However, "...in domestic matters, the powers of the president are decidedly interdependent and reciprocal with those of Congress."<sup>44</sup> There is no

question of appropriate power when the president acts with the sanction of Congress. But there are uncertainties where the president acts contrary to, or in the absence of Congressional direction.

In the case of posse comitatus, "...the test applied by the courts has been to determine whether the role of military personnel in the law enforcement operation was "passive" or "active."<sup>45</sup> The military engaged as a subordinate to a civilian agency would be considered acting "passively". The law is perceived to prevent use of the military in domestic law enforcement, and it may act as a deterrent to unjustified use of the military, but, historically, there are no instances where it has had significant application.

#### ANALYSIS

The policy for use of the military domestically has evolved over the years. Today, there are many who strongly hold that the president has the authority to use the armed forces for purposes of homeland security. As discussed above, there are specific laws and numerous precedents for doing so. "[S]ection 104 of the USA Patriot Act passed last year authorizes the emergency use of the military in "case of attack with a weapon of mass destruction."<sup>46</sup>

The president's authority to call upon the armed forces is not in question, however, the actions to be carried out by these forces in a domestic engagement is not clearly defined. There still remains a risk that the military will be called upon to perform law enforcement activities for which they are not trained and that may result in inadvertent violations of civil liberties. As discussed previously, the Posse Comitatus Act has been eroded to the point that it may no longer be relevant in the protection of these civil liberties and, at a minimum, may serve to confuse the role of the armed forces.

This issue can be analyzed from a strategic perspective and is centered on the national interest of **domestic security**. The National Strategy for Homeland Security provides insight into the ends and ways associated with maintaining national security.

ENDS	WAYS
1) prevent terrorist attacks within the United States	a. border and transportation security
	b. domestic counterterrorism
	c. intelligence and warning

2) reduce America's vulnerability to terrorism	a. protecting critical infrastructure and key assets
	b. defending against catastrophic terrorism
3) minimize the damage and recover from attacks	a. emergency preparedness and response

FIGURE 3. DOMESTIC SECURITY ENDS AND MEANS

Domestic use of the military is one of the means used to attain the ways and achieve the objectives listed above. The Department of Defense is tasked to conduct military missions to defend the people and country, to respond to attacks, and to take part in limited scope missions where other agencies have the lead.

American civil liberties represent a related national interest. The ends, ways and means used to satisfy the interest of domestic security cannot jeopardize and must be balanced with the national interest of civil liberties. The current policy does not reconcile the conflict that may result from these two national interests and the National Strategy for Homeland Security recognizes this with a recommendation to:

“Review authority for military assistance in domestic security. Federal law prohibits military personnel from enforcing the law within the United States except as expressly authorized by the Constitution or an Act of Congress. The threat of catastrophic terrorism requires a thorough review of the laws permitting the military to act within the United States in order to determine whether domestic preparedness and response efforts would benefit from greater involvement of military personnel and, if so, how.”<sup>47</sup>

The domestic use of the military is clearly a means for accomplishing the objectives of the strategy for homeland security. However, the perception of the public is that domestic use of the military is restricted. This creates a gap both in the public's mind on how their civil liberties are protected and in the military's mind regarding the rules of engagement in support of domestic actions.

The National Strategy for Homeland Security recommends a review of current laws/policies and effecting appropriate changes as necessary. However, since the issuance of the strategy Tom Ridge, director of the Office for Homeland Security, indicated that “... changes in the (posse comitatus) act are unlikely...”<sup>48</sup> and Defense Secretary Donald Rumsfeld stated

that "... he didn't think the law should be changed...."<sup>49</sup> Civil libertarians are opposed to review of the posse comitatus act for fear that changes will diminish protection of citizens' rights. Therefore, contrary to policy cited in the National Strategy for Homeland Security, there seems to be support to maintain the status quo and to deal with the next domestic security event when it materializes.

A review and modification of current laws and regulations would most likely lead to lengthy debates over presidential powers and protection of civil liberties. "Given the confusion over the PCA (posse comitatus act), Quillen said that the military might react inappropriately to an emergency situation. He called for clarifying the law and the federal regulations."<sup>50</sup> There may be a concern by the current administration that the debate of this topic may lead to greater limitations of the president's power to use the military. However, historical precedents support the president's authority to do so. The civil libertarians fear that the review will lead to the granting of greater flexibility for the military and infringement of people's rights. Therefore, interested parties may consider this alternative as risky. The irony is that a debate and subsequent, clarifying legislation could serve to preserve both interests and better prepare the public and the military for the time when the military is called upon to respond to matters of homeland security.

#### RECOMMENDATION.

Given the complexity of the issue, the misperceptions that exist regarding current legislation, and the benefits to be gained by having a clear policy in light of the current demand for homeland security, it is recommended that existing laws and regulations be reviewed. New policy should clearly establish the conditions for use and the roles and mission of the military when called upon to support a domestic initiative. The public would be better served by a clear understanding of when and how the military will be used. The military would be better prepared by having a clear doctrine to train under and develop the necessary force structure to respond adequately to any crisis. Politically, new legislation would serve to solidify all branches of the government on this issue and demonstrate to the American public that their interests are being considered.

#### ARE WE READY?

As the analysis above shows, this is not a simple yes or no question. The following table summarizes the results of the discussions above. The level of readiness in the table was determined by a subjective assignment of a rating of red (unprepared to meet the principle); yellow (there is a risk that the principle will not be met); or, green (the principle will be met). The

areas of improvement summarize the recommendations addressed above under each of the principles.

PRINCIPLE	LEVEL OF READINESS	AREAS FOR IMPROVEMENT
OBJECTIVE	Green	1. Improve coordination of planning for domestic operations between civilian agencies and military.
UNITY OF EFFORT	Yellow	1. Develop standing task force(s) in the Dept. of Homeland Security to coordinate command and control efforts for domestic security.
SECURITY	Green	1. Require federal response plans, military operations plans and memoranda of agreement specifically address the conditions for military to provide security for U.S. citizens.
RESTRAINT	Yellow	1. Establish Military Doctrine for RUF/ROE specifically for military operations in support of homeland security. 2. Require federal response plans and military operations plans address RUF/ROE.
PERSEVERANCE	Yellow	1. Adopt a force planning metric that recognizes the current defense strategy and specifically addresses the homeland security mission of the military. 2. Apportion resources to NORTHCOM in recognition of the priority to conduct military operations in support of homeland security. 3. Coordinate doctrine to guide the transition from military operations to civil support.
LEGITAMACY	Green	1. Conduct a review of current legislation associated with use of military for domestic security – revise legislation to ensure conditions for use of military are clear and individual's rights are protected.
OVERALL	Yellow	Create opportunities for agencies to plan and train together. The two most significant factors are coordination and resources. Planning and training exercises could confirm or contest the adequacy of either and provide justification for necessary changes.

FIGURE 4. SUMMARY OF RECOMMENDATIONS

Although there are clearly opportunities for improvements across the principles for operations, there are also many policies and procedures in place that suggest if the military was directed to conduct a domestic operation in the near future, the response would most probably be both timely and effective. However, the remaining risk is significant enough that it would be in the nation's best interests to explore some of the recommendations noted in this analysis. The timing for consideration of these improvements couldn't be better as the Department of Homeland Security and the U.S. Northern Command are under formation. The political environment is ripe for changes that would support the effective use of the military for homeland security. If the historical role of the military needs to change; or, if military doctrine/planning needs to be incorporated into processes for the civilian agencies, than there is no better time than the present to pursue these changes. If the war is brought to American soil, let no one be able to question if we did all that was possible to protect American life and property. Our military acts to eliminate the threats to our nation by pursuing those that would jeopardize our lives or our freedoms, but, today, more than any other time in our history, we are faced with the realization that these efforts to deter our enemies where they live may not be enough. The U.S. is at risk of attack and must be prepared to respond.

WORD COUNT = 10,514

## ENDNOTES

- <sup>1</sup> Joint Chiefs of Staff, Joint Doctrine for Military Operations Other Than War, Joint Publication 3-07 (Washington, D.C.: U.S. Joint Chiefs of Staff, 16 June 1995), 6.
- <sup>2</sup> Joint Chiefs of Staff, Joint Doctrine for Homeland Security (First Draft), Joint Publication 3-26 (Washington, D.C.: U.S. Joint Chiefs of Staff, 18 December 2002), I-3, I-4.
- <sup>3</sup> Antulio J. Echevarria II, The Army and Homeland Security: A Strategic Perspective, (Carlisle, PA.: U.S. Army War College, March 2001),.2.
- <sup>4</sup> Joint Publication 3-07, II-1.
- <sup>5</sup> *ibid*, II-1.
- <sup>6</sup> B. H. Liddell Hart, Strategy, (New York, NY: Praeger Publishers, 1975), 351.
- <sup>7</sup> George W. Bush, The National Security Strategy of the United States (Washington, D.C.: The White House, Sep 2002), 6.
- <sup>8</sup> *ibid*, 21.
- <sup>9</sup> Arthur F. Lykke, Jr., "Toward an Understanding of Military Strategy", U.S. Army War College Guide To Strategy (Carlisle, PA.: U.S. Army War College, Feb 2001), 183.
- <sup>10</sup> George W. Bush, The National Strategy for Homeland Security (Washington, D.C.: The White House, July 2002), 5.
- <sup>11</sup> *ibid*, vii.
- <sup>12</sup> *ibid*, 13.
- <sup>13</sup> Joint Chiefs of Staff, National Military Strategy of the United States of America (Pre-Decisional Draft) (Washington, D.C.: U.S. Joint Chiefs of Staff, 19 September 2002), 14.
- <sup>14</sup> *ibid*, 14.
- <sup>15</sup> *ibid*, 8.
- <sup>16</sup> Joint Publication 3-26, first draft, I-13.
- <sup>17</sup> U. S Northern Command Homepage, Dec 2002, available from <http://www.northcom.mil/index.cfm?fuseaction=news.factsheets>. Internet; accessed 2 December 2002.
- <sup>18</sup> Joint Publication 3-26, first draft, II-24.
- <sup>19</sup> *ibid*, II-31.



- <sup>20</sup> *ibid*, II-32.
- <sup>21</sup> Joint Publication 3-07, II-3.
- <sup>22</sup> Joint Publication 3-26, first draft, II-1.
- <sup>23</sup> Joint Chiefs of Staff, Unified Action Armed Forces (UNAAF), Joint Publication 0-2 (Washington, D.C.: U.S. Joint Chiefs of Staff, 10 July 2001), viii.
- <sup>24</sup> *ibid*, xi.
- <sup>25</sup> Joint Publication 3-26, first draft, II-2.
- <sup>26</sup> Ivo H. Daalder et al., Assessing the Department of Homeland Security (Washington, D.C.: The Brookings Institution, July 2002), x.
- <sup>27</sup> Joint Publication 3-26, first draft, II-27.
- <sup>28</sup> Joint Publication 3-07, II-3.
- <sup>29</sup> *ibid*, II-4.
- <sup>30</sup> Joint Chiefs of Staff, Doctrine for Joint Operations, Joint Publication 3-0 (Washington, D.C.: U.S. Joint Chiefs of Staff, 10 September 2011), VI-6.
- <sup>31</sup> Christopher M. Schnaubelt, "The 1992 Los Angeles Riots – Lessons in Command and Control from the Los Angeles Riots", Parameters (Summer 1997), 88.
- <sup>32</sup> *ibid*, 103.
- <sup>33</sup> *ibid*, 104.
- <sup>34</sup> Joint Publication 3-07, II-4,5.
- <sup>35</sup> Department of Defense, Quadrennial Defense Review Report, (Washington, D.C.: U.S. Department of Defense, 30 September 2001), 21.
- <sup>36</sup> The National Military Strategy of the United States of America (Pre-Decisional Draft), 2.
- <sup>37</sup> Quadrennial Defense Review Report, 19.
- <sup>38</sup> Echevarria II, 16.
- <sup>39</sup> Joint Publication 3-07, II-5.
- <sup>40</sup> Paul Schott Stevens, U.S. Armed Forces and Homeland Defense, The Legal Framework, (Center for Strategic and International Studies October 2001), 5.

<sup>41</sup> *ibid*, 13.

<sup>42</sup> *ibid*; 22.

<sup>43</sup> Craig T. Trebilcock, "The Myth of Posse Comitatus", October 2000. Available from <http://www.homelandsecurity.org/journal/articles/Trebilcock.html>; Internet; accessed 12 September 2002.

<sup>44</sup> Stevens, 13.

<sup>45</sup> Trebilcock.

<sup>46</sup> David Shribman, "A dangerous choice to use military as domestic police.", Concord Monitor Online 29 July 2002. Available from [http://www.concordmonitor.com/stories/news/opinion/opinion/shrib\\_militaryrole\\_2002\\_2002.htm](http://www.concordmonitor.com/stories/news/opinion/opinion/shrib_militaryrole_2002_2002.htm), Internet; accessed 12 September 2002.

<sup>47</sup> National Strategy for Homeland Security, 48.

<sup>48</sup> Anonymous, "Domestic use of military grabs nation's attention" National Guard (National Guard Association of the United States, Aug 2002):[database on-line]; available from ProQuest; accessed 24 September 2002.

<sup>49</sup> *ibid*.

<sup>50</sup> Joseph A. D'Agotino, "Bush Will Review Law On Domestic Use of Military" Human Events Online 29 July 2002. Available from <http://www.humaneventsonline.com/articles/07-29-02/dagostino.htm>. Internet; accessed 12 September 2002.



## BIBLIOGRAPHY

- Anonymous. "Domestic use of military grabs nation's attention." National Guard. (National Guard Association of the United States, Aug 2002).:Database on-line. Available from ProQuest. Accessed 24 September 2002.
- Bush, George W. The National Security Strategy of the United States Washington, D.C.: The White House, Sep 2002.
- Bush, George W. The National Strategy for Homeland Security Washington, D.C.: The White House, July 2002.
- D'Agotino, Joseph A. "Bush Will Review Law On Domestic Use of Military." Human Events Online 29 July 2002. Available from <http://www.humaneventsonline.com/articles/07-29-02/dagostino.htm>. Internet. Accessed 12 September 2002.
- Daalder, Ivo H., Destler, I.M., Lindsey, James m., Light, Paul c., Litan, Robert e., O'Hanlon, Michael e., Orszag, Peter r., Steinberg, James B. Assessing the Department of Homeland Security. Washington, D.C.: The Brookings Institution, July 2002.
- Echevarria II, Antulio J. The Army and Homeland Security: A Strategic Perspective. Carlisle, PA.: U.S. Army War College, March 2001.
- Hart, B. H. Liddell, Strategy. New York, NY: Praeger Publishers, 1975.
- Lykke, Jr., Arthur F. "Toward an Understanding of Military Strategy", U.S. Army War College Guide To Strategy. Carlisle, PA.: U.S. Army War College, Feb 2001.
- Schnaubelt, Christopher M. "The 1992 Los Angeles Riots – Lessons in Command and Control from the Los Angeles Riots." Parameters (Summer 1997).
- Shribman, David. "A dangerous choice to use military as domestic police." Concord Monitor Online. 29 July 2002. Available from [http://www.concordmonitor.com/stories/news/opinion/opinion/shrib\\_militaryrole\\_2002\\_2002.htm](http://www.concordmonitor.com/stories/news/opinion/opinion/shrib_militaryrole_2002_2002.htm), Internet. Accessed 12 September 2002.
- Stevens, Paul Schott. U.S. Armed Forces and Homeland Defense, The Legal Framework. Center for Strategic and International Studies October 2001.
- Trebilcock, Craig T. "The Myth of Posse Comitatus", October 2000. Available from <http://www.homelandsecurity.org/journal/articles/Trebilcock.html>. Internet. Accessed 12 September 2002.
- U. S Northern Command Homepage. December 2002. Available from <http://www.northcom.mil/index.cfm?fuseaction=news.factsheets>. Internet. Accessed 2 December 2002
- U. S. Department of Defense. Quadrennial Defense Review Report. Washington, D.C.: U.S. Department of Defense, 30 September 2001.

- U.S. Joint Chiefs of Staff. Doctrine for Joint Operations. Joint Publication 3-0. Washington, D.C.: U.S. Joint Chiefs of Staff, 10 September 2011.
- U.S. Joint Chiefs of Staff. Joint Doctrine for Homeland Security (First Draft). Joint Publication 3-26. Washington, D.C.: U.S. Joint Chiefs of Staff, 18 December 2002.
- U.S. Joint Chiefs of Staff. Joint Doctrine for Military Operations Other Than War. Joint Publication 3-07. Washington, D.C.: U.S. Joint Chiefs of Staff, 16 June 1995.
- U.S. Joint Chiefs of Staff. National Military Strategy of the United States of America (Pre-Decisional Draft). Washington, D.C.: U.S. Joint Chiefs of Staff, 19 September 2002.
- U.S. Joint Chiefs of Staff. Unified Action Armed Forces (UNAAF). Joint Publication 0-2. Washington, D.C.: U.S. Joint Chiefs of Staff, 10 July 2001.